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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8309 of 2021

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YOGENDRA KUMAR

Versus

INDIAN AIR FORCE & 1 other(s)

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Appearance:

MR. AUM M KOTWAL(7320) for the Petitioner(s) No. 1

MS SHREE KOTWAL(11177) for the Petitioner(s) No. 1

MR DEVANG VYAS(2794) for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE A.J.DESAI
 and
HONOURABLE DR. JUSTICE A. P. THAKER

Date : 11/08/2021

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.J.DESAI)

1. By way of present petition under Articles 14, 19, 21 and 226 of the Constitution of India, the petitioner has prayed as under:-

i. *Pass an order quashing the show cause notice dated 10.05.21 issued by respondent no.1 to the petitioner;*

ii. *Pass an order directing respondent no.1 to not force the petitioner to get the vaccine and to further stop issuing show cause notice in this regard;*

iii. *Pass an order directing respondent no.1 to not take any coercive action against the petitioner in furtherance of the show cause notice dated 10.5.2021.*

iv. *Pass an order directing the respondent no.1 to follow Union of India's (Respondent No.2) order that the vaccine is purely voluntary and therefore no order be issued making vaccine mandatory in respondent no.1 establishment.*

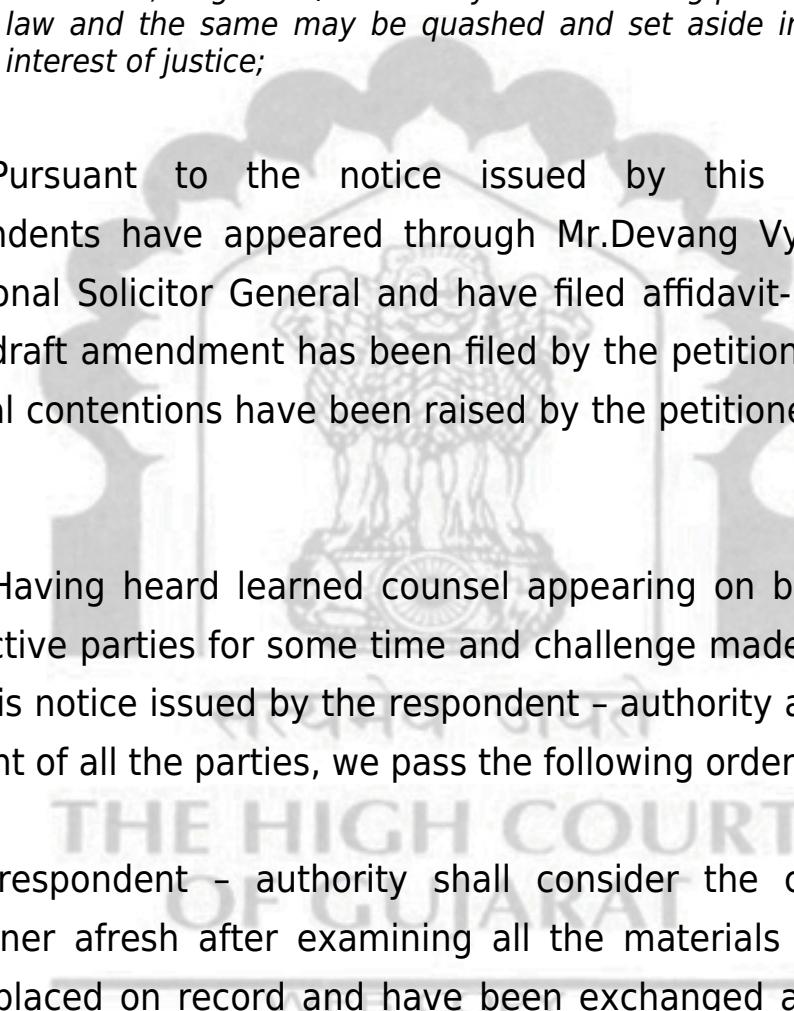
v. *This Hon'ble Court may be pleased to dispense with*

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the office objections, including notarised affidavit of the petition considering the wide spread pandemic situation in place, in larger interest of justice;

vi. Pass any other order deemed fit and proper in the circumstances of the case.

A. This Hon'ble Court may be pleased to hold the direction dated 26.04.2021 and letter dated 28.04.2021 as ultra vires, illegal and/or contrary to the existing position of law and the same may be quashed and set aside in the interest of justice;



2. Pursuant to the notice issued by this Court, the respondents have appeared through Mr. Devang Vyas, learned Additional Solicitor General and have filed affidavit-in-reply and even draft amendment has been filed by the petitioner by which several contentions have been raised by the petitioner himself in reply.
3. Having heard learned counsel appearing on behalf of the respective parties for some time and challenge made before this Court is notice issued by the respondent - authority and with the consent of all the parties, we pass the following order.

"The respondent - authority shall consider the case of the petitioner afresh after examining all the materials which have been placed on record and have been exchanged amongst the lawyers. The respondent - authority shall give an opportunity of hearing to the petitioner even through his lawyer who represent his case. The respondent - authority shall decide the case of the petitioner as early as possible preferably within a period of four weeks hereinafter. It is needless to say that the respondent - authority shall deal with the case of the petitioner keeping in mind the submissions made by the learned counsel for the petitioner. It is made clear that this Court has not gone into

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merits of the case. Interim relief shall be continued till the case is decided and if any adverse order is passed, the same shall not be implemented for a period of two weeks from the date of service of the order to the petitioner.

4. With the above direction, the petition is disposed of. Notice is discharged.

(A.J.DESAI, J)

V.R. PANCHAL

(DR. A. P. THAKER, J)

